

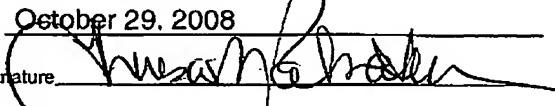
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Doc Code: AP.PRE.REQ

PTO/SB/33 (07-05)

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| PRE-APPEAL BRIEF REQUEST FOR REVIEW | | Docket Number (Optional) |
| | | 60469-193; OT-5003 |
| <p>CERTIFICATE OF FACSIMILE I hereby certify that this Pre-Appeal Brief Request For Review and Notice of Appeal are being facsimile transmitted to (571) 273-8300. on <u>October 29, 2008</u> Signature </p> | | <p>Application Number <u>10/520,756</u></p> <p>Filed <u>7/13/2005</u></p> |
| | | <p>First Named Inventor <u>Leandre ADIFON</u></p> |
| <p>Typed or printed name <u>Theresa M. Palmateer</u></p> | | <p>Art Unit <u>3654</u></p> <p>Examiner <u>Eric E. PICO</u></p> |

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

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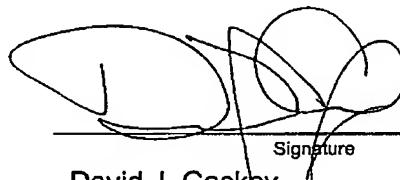
applicant/inventor.

assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

attorney or agent of record.
Registration number 37,139

attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 _____



Signature

David J. Gaskey

Typed or printed name

(248) 988-8360

Telephone number

October 29, 2008

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.

*Total of 1 forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Leandre ADIFON, *et al.*
Serial No. 10/520,756
PCT Filed: July 18, 2002
§ 371(c) Date: July 13, 2005
Art Unit: 3654
Examiner: Eric E. PICO
Title: ROOFTOP CONTROL UNIT FOR AN ELEVATOR SYSTEM HAVING
A REMOVABLE COVER

REQUEST FOR PRE-APPEAL BRIEF REVIEW

Mail Stop AF
Commissioner For Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

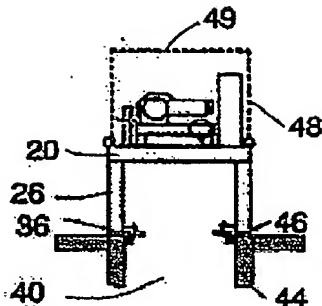
Applicants present this request for pre-appeal brief review because the Examiner has not established a *prima facie* case of anticipation or obviousness against any of Applicants' claims.

Applicants' independent claims include an elevator machine assembly supported on a support base and covered by a cover. The claims also include the following limitations:

the support base includes a first generally planar surface with a plurality of side portions connected to and extending away from the surface, and

wherein the cover includes a corresponding plurality of side walls that are received against the side portions of the support base when the cover is secured to the support base such that one of the side portions of the support base and the side walls of the cover surround and at least partially overlap the other of the side portions of the support base and the side walls of the cover.

The Examiner relies upon the *Hakola* reference (EP 0646537). That reference does not disclose what the Examiner suggests. Figure 2d of the reference is reproduced below for convenience.

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Hakola Fig. 2d

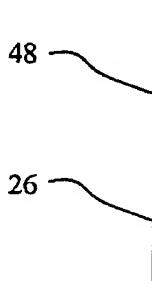
The Examiner contends that "the top surface side portions 26 of the support base 2 surround and overlap the bottom surface of the side walls 48 of the cover 49." Applicant respectfully disagrees. The arrangement shown in Figure 2 of the *Hakola* reference includes the frame of the base 2 having steel rails 20 to which a floor 22 is attached. The frame of the base 2 (e.g., the steel rails 20) are "mounted on top of the top module 26 forming the top most part of the elevator shaft." (Column 2, lines 56-58) In Figure 2, the ceiling 49 is received on top of the floor 22 of the base 2 with the bottom edge of the ceiling 49 abutting against the top of the floor 22. There is clearly no overlapping relationship between side portions 26 and any side walls of the ceiling 49. The Examiner attributes a feature of the *Hakola* reference that is simply not there.

The overlapping side portions and side walls of Applicants' claimed arrangement that are received against each other cannot be found in the *Hakola* reference. Overlapping, by definition, requires a configuration where one part extends over and partially covers the other. For example, if a cross section were taken parallel to side portions and side walls that at least partially overlap, it would look something like this:



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On the other hand, the pieces of the *Hakola* reference relied upon by the Examiner if viewed in cross-section from a similar perspective would look something like this:



There is a clear distinction between an overlapping arrangement as claimed by Applicants and the non-overlapping arrangement of the *Hakola* reference. The vertical spacing between the sidewalls 26 and the sides 48 of the ceiling 49 in the *Hakola* reference makes it impossible for them to be received against each other and impossible to find any overlap between them. Therefore, there is no *prima facie* case of anticipation.

Every obviousness rejection made by the Examiner depends on the same erroneous conclusion regarding the contents of the *Hakola* reference. Without any overlapping arrangement in the *Hakola* reference, it matters not which of the secondary references the Examiner proposes to use for modifying the *Hakola* reference because there will not be a result that establishes a *prima facie* case of obviousness. The overlapping arrangement of Applicants' claimed invention is completely missing from the references relied upon by the Examiner.

Therefore the §102 and §103 rejections based on the *Hakola* reference must be withdrawn.

Respectfully submitted,
CARLSON, GASKEY & OLDS



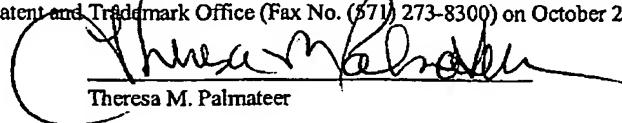
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Dated: October 29, 2008

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CERTIFICATE OF FACSIMILE

I hereby certify that this Request for Pre-Appeal Brief Review, relative to Application Serial No. 10/520,756, is being facsimile transmitted to the Patent and Trademark Office (Fax No. (571) 273-8300) on October 29, 2008.



Theresa M. Palmateer